

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION	Master File No. 12-md-02311 Honorable Marianne O. Battani
In Re: ANTI-VIBRATIONAL RUBBER PARTS	
THIS RELATES TO: ALL END-PAYOR ACTIONS	2:13-cv-00803-MOB-MKM JURY TRIAL DEMANDED

**SUMITOMO RIKO COMPANY LIMITED’S ANSWER TO CONSOLIDATED AMENDED CLASS ACTION COMPLAINT**

Defendant Sumitomo Riko Company Limited (“SRK”), by and through its undersigned attorneys, respectfully submits the following answer and additional defenses to Plaintiffs’ Consolidated Amended Class Action Complaint (the “Complaint”). Except as expressly stated below, SRK answers and responds only to those allegations directed toward it. SRK is without knowledge or information sufficient to form a belief concerning the truth of the allegations in the Complaint directed toward other defendants, and on that basis, denies all such allegations. SRK answers and responds to each of the allegations in the Complaint as follows:

**NATURE OF ACTION**

1. SRK denies any factual allegations contained in Paragraph 1 and makes no response to Plaintiffs’ characterization of the nature of their claims.
2. SRK admits that Plaintiffs purport to bring the Complaint on behalf of the persons and entities identified in Paragraph 2 but denies that this case may appropriately be maintained as a class action or that the purported class identified in Paragraph 2 defines an appropriate class that may be certified pursuant to the standards outlined in Federal Rule of Civil Procedure 23.

3. The allegations in Paragraph 3 consist of definitions for the purposes of construing the Complaint to which no response is required. To the extent a response is deemed necessary, SRK admits that Paragraph 3 contains the definition of Anti-Vibration Rubber Products that Plaintiffs use in the Complaint.

4. SRK denies the allegations in the first sentence of Paragraph 4 directed toward SRK. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in the first sentence of Paragraph 4 directed toward other defendants, and on that basis denies them. The remaining allegations in Paragraph 4 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the remaining allegations in Paragraph 4.

5. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 and on that basis denies them.

6. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 6 and on that basis denies them.

7. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 7 and on that basis denies them.

8. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 8 and on that basis denies them.

9. Paragraph 9 states legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 9.

10. The allegations in Paragraph 10 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 10.

**JURISDICTION AND VENUE**

11. SRK admits that Plaintiffs and members of the Classes defined in Paragraphs 159 and 160 purportedly bring claims to recover damages, seek restitution, costs of the suit, and injunctive relief pursuant to the statutes cited, but denies that there are any damages or restitution recoverable or that relief from the costs of the suit or injunctive relief is appropriate.

12. The allegations in Paragraph 12 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 12.

13. The allegations in Paragraph 13 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 13.

14. The allegations in Paragraph 14 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 14.

15. The allegations in Paragraph 15 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 15.

16. The allegations in the first sentence of Paragraph 16 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 16 directed toward other defendants, and on that basis denies them. SRK denies the remaining allegations in Paragraph 16.

17. The allegations in Paragraph 17 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 17.

18. SRK denies the allegations in Paragraph 18.

19. SRK denies the allegations in Paragraph 19.

**PARTIES**

**Plaintiffs**

20. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 20 and on that basis denies them.

21. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 21 and on that basis denies them.

22. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 22 and on that basis denies them.

23. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 23 and on that basis denies them.

24. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 24 and on that basis denies them.

25. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 25 and on that basis denies them.

26. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 26 and on that basis denies them.

27. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 27 and on that basis denies them.

28. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 28 and on that basis denies them.

29. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 29 and on that basis denies them.

30. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 30 and on that basis denies them.

31. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 31 and on that basis denies them.

32. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 32 and on that basis denies them.

33. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 33 and on that basis denies them.

34. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 34 and on that basis denies them.

35. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 35 and on that basis denies them.

36. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 36 and on that basis denies them.

37. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 37 and on that basis denies them.

38. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 38 and on that basis denies them.

39. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 39 and on that basis denies them.

40. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 40 and on that basis denies them.

41. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 41 and on that basis denies them.

42. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 42 and on that basis denies them.

43. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 43 and on that basis denies them.

44. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 44 and on that basis denies them.

45. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 45 and on that basis denies them.

46. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 46 and on that basis denies them.

47. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 47 and on that basis denies them.

48. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 48 and on that basis denies them.

49. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 49 and on that basis denies them.

50. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 50 and on that basis denies them.

51. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 51 and on that basis denies them.

52. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 52 and on that basis denies them.

53. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 53 and on that basis denies them.

54. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 54 and on that basis denies them.

55. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 55 and on that basis denies them.

56. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 56 and on that basis denies them.

57. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 57 and on that basis denies them.

58. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 58 and on that basis denies them.

59. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 59 and on that basis denies them.

60. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 60 and on that basis denies them.

61. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 61 and on that basis denies them.

62. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 62 and on that basis denies them.

63. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 63 and on that basis denies them.

64. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 64 and on that basis denies them.

65. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 65 and on that basis denies them.

66. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 66 and on that basis denies them.

67. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 67 and on that basis denies them.

68. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 68 and on that basis denies them.

69. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 69 and on that basis denies them.

70. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 70 and on that basis denies them.

71. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 71 and on that basis denies them.

72. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 72 and on that basis denies them.

73. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 73 and on that basis denies them.



74. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 74 and on that basis denies them.

75. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 75 and on that basis denies them.

76. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 76 and on that basis denies them.

77. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 77 and on that basis denies them.

**Defendants**

78. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 78 and on that basis denies them.

79. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 79 and on that basis denies them.

80. There is no allegation in Paragraph 80 and thus no response is necessary.

81. SRK admits that it was formerly known as Tokai Rubber Industries, Ltd. and is a Japanese company with its principal place of business in Aichi prefecture, Japan. SRK denies that it manufactures, markets, or sells Anti-Vibration Rubber Parts in the United States, but admits that its subsidiary, DTR Industries, Inc. ("DTR"), manufactures, markets, and sells Anti-Vibration Rubber Parts in the United States. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 81 and on that basis denies them.

82. SRK admits that DTR is a Delaware corporation with its principal place of business in Bluffton, Ohio. SRK admits that DTR is a subsidiary of and wholly owned by its parent, SRK. SRK admits that DTR manufactured and sold Anti-Vibration Rubber Parts during the purported class

period. SRK denies that the activities of DTR were under the control and direction of SRK during the purported class period. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 82 and on that basis denies them.

83. There is no allegation in Paragraph 83 and thus no response is necessary.

84. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 84 and on that basis denies them.

85. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 85 and on that basis denies them.

86. There is no allegation in Paragraph 86 and thus no response is necessary.

87. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 87 and on that basis denies them.

88. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 88 and on that basis denies them.

89. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 89 and on that basis denies them.

90. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 90 and on that basis denies them.

91. There is no allegation in Paragraph 91 and thus no response is necessary.

#### **AGENTS AND CO-CONSPIRATORS**

92. The allegations in Paragraph 92 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 92.

93. The allegations in Paragraph 93 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 93.

94. Paragraph 94 contains an instruction in relation to the construction of the Complaint to which no response is required.

### **FACTUAL ALLEGATIONS**

#### **A. The Anti-Vibration Rubber Parts Industry**

95. SRK admits the allegations in Paragraph 95.

96. SRK admits the allegations in Paragraph 96 on information and belief.

97. SRK admits that it sold Anti-Vibration Rubber Parts to certain OEMs and to certain Tier 1 suppliers, as that term is defined in Paragraph 97. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 97 and on that basis denies them.

98. SRK admits that it has responded to requests for quotation from certain OEMs for the supply of Anti-Vibration Rubber Parts. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 98 and on that basis denies them.

99. SRK admits that DTR sold Anti-Vibration Rubber Parts to customers in the United States. SRK lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 99 and on that basis denies them.

100. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 100 and on that basis denies them.

#### **B. The Structure and Characteristics of the Anti-Vibration Rubber Parts Market Render the Conspiracy More Plausible**

101. SRK denies the allegations in Paragraph 101.

##### **1. The Anti-Vibration Rubber Parts Market Has High Barriers to Entry**

102. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 102 and on that basis denies them.

103. SRK denies the allegations in Paragraph 103.

104. SRK admits that it owns several patents relating to Anti-Vibration Rubber Parts. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 104 and on that basis denies them.

**2. There is Inelasticity of Demand for Anti-Vibration Rubber Parts**

105. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 105 and on that basis denies them.

106. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 106 and on that basis denies them.

107. SRK denies the allegations in Paragraph 107.

**C. Government Investigations**

108. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 108 and on that basis denies them.

109. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 109 and on that basis denies them.

110. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 110 and on that basis denies them.

111. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 111 and on that basis denies them.

112. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 112 and on that basis denies them.

113. The first and third sentences of Paragraph 113 states legal conclusions to which no response is required. SRK lacks knowledge or information sufficient to form a belief as to the truth of

the allegations contained in the second sentence of Paragraph 113 and on that basis denies those allegations.

114. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 114 and on that basis denies them.

115. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 115 and on that basis denies them.

116. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 116 and on that basis denies them.

117. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 117 and on that basis denies them.

118. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 118 and on that basis denies them.

119. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 119 and on that basis denies them.

120. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 120 and on that basis denies them.

121. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 121 and on that basis denies them.

122. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 122 and on that basis denies them.

123. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 123 and on that basis denies them.

124. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 124 and on that basis denies them.

125. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 125 and on that basis denies them.

126. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 126 and on that basis denies them.

127. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 127 and on that basis denies them.

128. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 128 and on that basis denies them.

129. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 129 and on that basis denies them.

130. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 130 and on that basis denies them.

131. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 131 and on that basis denies them.

132. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 132 and on that basis denies them.

133. The allegations in Paragraph 133 are vague, ambiguous and unclear, and on that basis SRK denies them.

**D. Guilty Pleas in Related Markets in the Automotive Industry**

134. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 134 and on that basis denies them.

135. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 135 and on that basis denies them.

136. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 136 and on that basis denies them.

137. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 137 and on that basis denies them.

138. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 138 and on that basis denies them.

139. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 139 and on that basis denies them.

140. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 140 and on that basis denies them.

141. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 141 and on that basis denies them.

142. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 142 and on that basis denies them.

143. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 143 and on that basis denies them.

144. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 144 and on that basis denies them.

145. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 145 and on that basis denies them.

146. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 146 and on that basis denies them.

147. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 147 and on that basis denies them.

148. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 148 and on that basis denies them.

149. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 149 and on that basis denies them.

150. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 150 and on that basis denies them.

151. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 151 and on that basis denies them.

152. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 152 and on that basis denies them.

153. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 153 and on that basis denies them.

154. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 154 and on that basis denies them.

155. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 155 and on that basis denies them.

156. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 156 and on that basis denies them.



157. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 157 and on that basis denies them.

158. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in Paragraph 158 and on that basis denies them.

**CLASS ACTION ALLEGATIONS**

159. SRK admits that Plaintiffs purportedly bring this action on the behalf of the putative class identified in Paragraph 159 but denies that this putative class is appropriate for certification under Rule 23 of the Federal Rules of Civil Procedure.

160. SRK admits that Plaintiffs purportedly bring this action on the behalf of the putative class identified in Paragraph 160 but denies that this putative class is appropriate for certification under Rule 23 of the Federal Rules of Civil Procedure.

161. SRK neither admits nor denies the definition of “Classes” as defined in Paragraph 161, but for purposes of construing the remaining allegations in the Complaint will use “Classes” as defined in Paragraph 161.

162. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 162 and on that basis denies them.

163. The allegations in Paragraph 163 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 163.

164. The allegations in the first sentence of Paragraph 164 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK denies the allegations in the final sentence of Paragraph 164.

165. SRK lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 165 and on that basis denies them.

166. The allegations in Paragraph 166 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 166.

167. The allegations in Paragraph 167 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 167.

168. The allegations in Paragraph 168 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 168.

**PLAINTIFFS AND THE CLASSES SUFFERED ANTITRUST INJURY**

169. SRK denies the allegations in Paragraph 169.

170. SRK denies the allegations in Paragraph 170.

171. SRK admits that Anti-Vibration Rubber products are used in vehicles. SRK denies the remaining allegations in Paragraph 171.

172. SRK denies the allegations in Paragraph 172.

173. SRK denies the allegations in Paragraph 173.

174. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 174 and on that basis denies them.

175. SRK denies the allegations in Paragraph 175.

176. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 176 and on that basis denies them.

177. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 177 and on that basis denies them.

178. SRK denies the allegations in the first sentence of Paragraph 178. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 178 and on that basis denies them.

179. SRK denies the allegations in Paragraph 179.

180. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 180 and on that basis denies them.

181. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 181 and on that basis denies them.

182. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 182 and on that basis denies them.

183. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 183 and on that basis denies them.

184. SRK denies the allegations in Paragraph 184.

**PLAINTIFFS CLAIMS ARE NOT BARRED BY THE STATUTE OF LIMITATIONS**

**A. The Statue of Limitations Did Not Begin to Run Because Plaintiffs Did Not And Could Not Discover Their Claims**

185. SRK admits that Plaintiffs purport to incorporate by reference the allegations contained in Paragraphs 1 through 184 of this Complaint.

186. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 186 and on that basis denies them.

187. SRK lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 187 and on that basis denies them.

188. SRK lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 188 and on that basis denies them.

189. The allegations in Paragraph 189 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 189.

**B. Fraudulent Concealment Tolled the Statute of Limitations**

190. The allegations in the first sentence of Paragraph 190 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 190 and on that basis denies them.

191. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 191 and on that basis denies them.

192. The allegations in Paragraph 192 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 192.

193. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 193 and on that basis denies them.

194. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 194 and on that basis denies them.

195. The allegations in the first sentence of Paragraph 195 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 195 and on that basis denies them.

196. SRK denies the allegations in Paragraph 196.

197. SRK denies the allegations in Paragraph 197.

198. The allegations in Paragraph 198 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 198.

**FIRST CLAIM FOR RELIEF**  
**Violation of Section 1 of the Sherman Act**  
**(On behalf of Plaintiffs and the Nationwide Class)**

199. SRK admits that Plaintiffs purport to incorporate by reference the allegations contained in Paragraphs 1 through 198 of this Complaint.

200. The allegations in Paragraph 200 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 200.

201. SRK denies the allegations in Paragraph 201.

202. The allegations in Paragraph 202 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 202.

203. SRK denies the allegations in Paragraph 203.

204. The allegations in Paragraph 204 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 204.

205. SRK denies the allegations in Paragraph 205.

206. SRK denies the allegations in Paragraph 206.

207. SRK denies the allegations in Paragraph 207.

208. SRK denies the allegations in Paragraph 208.

209. The allegations in Paragraph 209 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 209.

210. The allegations in Paragraph 210 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 210.

**SECOND CLAIM FOR RELIEF**  
**Violation of State Antitrust Statutes**  
**(On behalf of Plaintiffs and the Damages Class)**

211. SRK admits that Plaintiffs purport to incorporate by reference the allegations contained in Paragraphs 1 through 210 of this Complaint.

212. The allegations in Paragraph 212 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 212.

213. The allegations in Paragraph 213 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 213.

214. SRK denies the allegations in Paragraph 214. SRK specifically denies the allegations in Paragraph 214 to the extent that they purport to allege an agreement among all of the defendants identified in the Complaint.

215. The allegations in Paragraph 215 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 215.

216. The allegations in Paragraph 216 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 216.

217. The allegations in the first and fifth sentences of Paragraph 217 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 217.

218. The allegations in the first and second sentences of Paragraph 218 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek treble damages and their cost of suit pursuant to the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 218.

219. The allegations in the first and fifth sentences of Paragraph 219 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those

allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 219.

220. The allegations in the first and fifth sentences of Paragraph 220 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 220.

221. The allegations in the first and fifth sentences of Paragraph 221 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 221.

222. The allegations in the first and fifth sentences of Paragraph 222 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 222.

223. The allegations in the first and fifth sentences of Paragraph 223 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 223.

224. The allegations in the first and fifth sentences of Paragraph 224 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 224.

225. The allegations in the first and fifth sentences of Paragraph 225 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 225.

226. The allegations in the first and fifth sentences of Paragraph 226 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 226.

227. The allegations in the first and fifth sentences of Paragraph 227 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 227.

228. The allegations in the first and fifth sentences of Paragraph 228 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief



available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 228.

229. The allegations in the first and fifth sentences of Paragraph 229 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 229.

230. The allegations in the first, fifth, and sixth sentences of Paragraph 230 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 230.

231. The allegations in the first and fifth sentences of Paragraph 231 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any damages or injunctive relief is appropriate. SRK denies the remaining allegations in Paragraph 231.

232. The allegations in the first and fifth sentences of Paragraph 232 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 232.

233. The allegations in the first and fifth sentences of Paragraph 233 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 233.

234. The allegations in the first and fifth sentences of Paragraph 234 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 234.

235. The allegations in the first and fifth sentences of Paragraph 235 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 235.

236. The allegations in the first and fifth sentences of Paragraph 236 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 236.

237. The allegations in the first and fifth sentences of Paragraph 237 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief

available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 237.

238. The allegations in the first and fifth sentences of Paragraph 238 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 238.

239. The allegations in the first and fifth sentences of Paragraph 239 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 239.

240. The allegations in the last sentence of Paragraph 240 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK denies the remaining allegations in Paragraph 240.

241. SRK denies the allegations in Paragraph 241.

242. SRK admits that Plaintiffs and members of the Damages Class in each of the jurisdictions alleged seek trebled or otherwise increased damages and costs of suit to the extent permitted under the statutes cited, but denies that any such relief is appropriate.

**THIRD CLAIM FOR RELIEF**  
**Violation of State Consumer Protection Statutes**  
**(On behalf of Plaintiffs and the Damages Class)**

243. SRK admits that Plaintiffs purport to incorporate by reference the allegations contained in Paragraphs 1 through 242 of this Complaint.

244. The allegations in Paragraph 244 state legal conclusions to which no response is required. To the extent a response is deemed necessary, SRK denies the allegations in Paragraph 244.

245. The allegations in the first and third sentences of Paragraph 245 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The seventh sentence of Paragraph 245 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 245.

246. The allegations in the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, thirteenth, fourteenth, and fifteenth sentences of Paragraph 246 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs seek restitution under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 246.

247. The allegations in the first and third sentences of Paragraph 247 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The fifth sentence of Paragraph 247 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any damages or injunctive relief is appropriate. SRK denies the remaining allegations in Paragraph 247.

248. The allegations in the first sentence of Paragraph 248 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations.

The fifth sentence of Paragraph 248 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 248.

249. The allegations in the first sentence of Paragraph 249 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The fifth sentence of Paragraph 249 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 249.

250. The allegations in the first, second, and seventh sentences of Paragraph 250 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the sixth sentence of Paragraph 250 and on that basis denies them. SRK denies the remaining allegations in Paragraph 250.

251. The allegations in the first and eighth sentences of Paragraph 251 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the second and sixth sentences of Paragraph 251 and on that basis denies them. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 251.

252. The allegations in the first sentence of Paragraph 252 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The fifth sentence of Paragraph 252 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 252.

253. The allegations in the first and third sentences of Paragraph 253 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The seventh sentence of Paragraph 253 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 253.

254. The allegations in the first and third sentences of Paragraph 254 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the sixth sentence of Paragraph 254 directed toward other defendants, and on that basis denies them. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 254.

255. The allegations in the first and third sentences of Paragraph 255 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth of the

allegations in the sixth sentence of Paragraph 255 directed toward other defendants, and on that basis denies them. The eighth sentence of Paragraph 255 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 255.

256. The allegations in the first and eleventh sentences of Paragraph 256 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK lacks sufficient knowledge or information to form a belief as to the truth the allegations in the second sentence of Paragraph 256 and on that basis denies them. The twelfth sentence of Paragraph 256 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 256.

257. The allegations in the first sentence of Paragraph 257 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The fifth sentence of Paragraph 257 contains legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 257.

258. The allegations in the first sentence of Paragraph 258 state legal conclusions for which no response is required. To the extent a response is deemed necessary, SRK denies those allegations. The tenth sentence of Paragraph 258 contains legal conclusions for which no response is required. To

the extent a response is deemed necessary, SRK denies those allegations. SRK admits that Plaintiffs and members of the Damages Class seek all forms of relief available under the statute cited, but denies that any such relief is appropriate. SRK denies the remaining allegations in Paragraph 258.

### **DENIAL**

SRK denies each and every allegation in the Complaint not specifically admitted above.

### **AFFIRMATIVE DEFENSES**

Without assuming any burden of proof that it would not otherwise bear under applicable law, SRK asserts the following affirmative defenses to each and every cause of action alleged in the Complaint:

#### **First Defense**

Plaintiffs' claims are barred by applicable statutes of limitations.

#### **Second Defense**

Plaintiffs' claims are barred, in whole or in part, by the doctrines of unclean hands, *in pari delicto*, and equal responsibility.

#### **Third Defense**

Plaintiffs' lack standing to bring or maintain this action.

#### **Fourth Defense**

The Complaint fails to state facts sufficient to constitute a cause of action.

#### **Fifth Defense**

The Complaint fails to allege fraud and/or fraudulent concealment with sufficient specificity.



**Sixth Defense**

Plaintiffs' claims and the claims of others alleged to be members of the putative class are barred in whole or in part because they have not sustained any cognizable injury or antitrust injury by reason of any action of SRK or the alleged co-conspirators.

**Seventh Defense**

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs passed along to their own customers any "damages" allegedly suffered.

**Eighth Defense**

To the extent the Complaint states claims for alleged injuries arising from purchases of anti-vibration rubber parts outside the United States, Plaintiffs' claims are beyond the scope of United States federal and state antitrust law pursuant to the Foreign Trade Antitrust Improvements Act, 15 U.S.C. § 6a.

**Ninth Defense**

To the extent the Complaint states claims for alleged injuries arising from purchases of anti-vibration rubber parts outside the United States, Plaintiffs' claims under state law are preempted, in whole or in part, by United States federal law. U.S. Const. art. VI, cl. 2.

**Tenth Defense**

To the extent the Complaint states claims for alleged injuries arising from purchases of anti-vibration rubber parts outside the United States, Plaintiffs' claims under state law are barred, in whole or in part, by the Foreign Commerce Clause. U.S. Const. art. I, § 8, cl. 3.

**Eleventh Defense**

To the extent the Complaint states claims for alleged injuries arising from purchases of Anti-Vibration Rubber Parts outside the United States, Plaintiffs' claims are barred, in whole or in part, by the doctrine of International Comity.

**Twelfth Defense**

Plaintiffs' claims are barred in whole or in part because their alleged damages, if any, are speculative, and because of the impossibility of ascertaining and allocating these alleged damages.

**Thirteenth Defense**

Plaintiffs' may not assert causes of action on behalf of the putative class because their claims are not typical of those of the putative class. For this reason, among others, Plaintiffs cannot adequately represent the putative class.

**Fourteenth Defense**

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs' alleged injuries were not proximately caused by any act or omission related to SRK.

**Fifteenth Defense**

Plaintiffs' are precluded from recovering damages, in whole or in part, because and to the extent of, their failure to mitigate damages.

**Sixteenth Defense**

Plaintiffs' claims are barred by the doctrine of estoppel.

**Seventeenth Defense**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

**Eighteenth Defense**

The assignment of antitrust claims to Plaintiffs by third parties is barred by the doctrines of champerty and maintenance.

**Nineteenth Defense**

Plaintiffs lack standing to sue on behalf of unnamed subsidiaries or other unnamed entities.

**Twentieth Defense**

The Court lacks in personam jurisdiction over SRK.

**Twenty-First Defense**

This Court lacks subject matter jurisdiction, pursuant to the Foreign Trade Antitrust Improvements Act, 15 U.S.C. § 6a, to adjudicate claims involving foreign commerce, and pursuant to state law in states where SRK committed no actionable conduct.

**Twenty-Second Defense**

Venue for the action in the United States District Court for the Eastern District of Michigan is not proper.

**Twenty-Third Defense**

Plaintiffs' claims are barred because Plaintiffs cannot prove the requisite elements of fraudulent concealment, equitable estoppel, statutory tolling provisions, or any other theory under which Plaintiffs seek to toll the applicable statutes of limitations under the state and federal laws pursuant to which Plaintiffs purport to bring claims.

**Twenty-Fourth Defense**

Plaintiffs' claims are barred in whole or in part by the direct purchaser requirement of *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977).

**Twenty-Fifth Defense**

Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs and their alleged injuries fall outside the zone of interests intended to be protected by the statutes upon which they base their claims or because Plaintiffs are otherwise not persons entitled to recover under those statutes.

**Twenty-Sixth Defense**

To the extent that any actionable conduct occurred, Plaintiffs' claims and claims of any putative class members are barred because all such conduct would have been committed by individuals acting ultra vires.

**Twenty-Seventh Defense**

Plaintiffs and any putative class members are barred from recovery of any damages because the Complaint fails to sufficiently allege or properly define any market for the purpose of asserting a claim against SRK.

**Twenty-Eighth Defense**

Plaintiffs' claims should be dismissed to the extent that they are barred, in whole or in part, because SRK's actions did not lessen competition in the relevant market.

**Twenty-Ninth Defense**

Plaintiffs' federal claims are barred, in whole or in part, to the extent that they are based on alleged acts, conduct, or statements that did not affect interstate commerce.

**Thirtieth Defense**

Plaintiffs' state law claims are barred, in whole or in part, because Plaintiffs have not alleged conduct having sufficient connection to or impact on intrastate commerce or citizens of the state and because extraterritorial application of those laws violates the United States Constitution Commerce Clause and Fourteenth Amendment Due Process Clause.

**Thirty-First Defense**

Plaintiffs' claims should be dismissed to the extent that they are barred, in whole or in part, because any claimed injury or damage has been offset by benefits Plaintiffs received with respect to the challenged conduct.

**Thirty-Second Defense**

Plaintiffs' claim for unjust enrichment is barred, in whole or in part, because Plaintiffs did not confer a benefit on SRK.

**Thirty-Third Defense**

Plaintiffs' claim for unjust enrichment is barred, in whole or in part, because SRK did not retain any benefit allegedly conferred on it by Plaintiffs.

**Thirty-Fourth Defense**

Plaintiffs' claim for unjust enrichment is barred, in whole or in part, because any alleged retention of a benefit conferred by Plaintiffs on SRK was not unjust.

**Thirty-Fifth Defense**

Plaintiffs' claim for unjust enrichment is barred, in whole or in part, because Plaintiffs do not and cannot allege that privity exists between Plaintiffs and SRK.

**Thirty-Sixth Defense**

Plaintiffs' claim for unjust enrichment is barred, in whole or in part, because SRK gave consideration.

**Thirty-Seventh Defense**

Plaintiffs' claims are barred, in whole or in part, on the basis that Plaintiffs would be unjustly enriched if they were allowed to recover any part of the damages alleged in the Complaint.

**Thirty-Eighth Defense**

Plaintiffs' claims for injunction or other equitable relief are barred, in whole or in part, because Plaintiffs have available an adequate remedy at law.

**Thirty-Ninth Defense**

Plaintiffs' claims for injunctive relief are barred, in whole or in part, insofar as Plaintiffs seek to enjoin alleged events that have already transpired without the requisite showing of threatened future harm or continuing harm.

**Fortieth Defense**

Plaintiffs' claims are barred, in whole or in part, to the extent that any such claim is predicated on conduct expressly authorized by law.

**Forty-First Defense**

Plaintiffs' claims and claims of any putative class members are barred to the extent that they have agreed to arbitration or agreed to a different forum for the resolution of their claims.

**Forty-Second Defense**

Plaintiffs' claims are improperly joined within the meaning of Rule 20 of the Federal Rules of Civil Procedure because they did not arise out of the same transaction, occurrence, or series of transactions or occurrences and/or do not involve questions of law or fact common to all defendants.

**Forty-Third Defense**

Plaintiffs' claims for unjust enrichment are barred, in whole or in part, because Plaintiffs failed to exhaust all remedies against the parties with whom each Plaintiff is in privity.

**Forty-Fourth Defense**

Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs seek damages that are duplicative of damages sought in other actions.

**Forty-Fifth Defense**

Without admitting the existence of any contract, combination, or conspiracy in restraint of trade, SRK avers that it is entitled to set off any amounts paid to Plaintiffs by any other defendants who have settled, or do settle, Plaintiffs' claims against them in this matter.

**Forty-Sixth Defense**

Plaintiffs' claims to certain remedies are barred, in whole or in part, to the extent that Plaintiffs have waived, under any applicable contract or otherwise, their rights to those remedies, including but not limited to treble damages and attorneys' fees.

**Forty-Seventh Defense**

Plaintiffs' claims are barred, in whole or in part, by the economic loss doctrine because Plaintiffs did not suffer any personal injury or property damage.

**Forty-Eighth Defense**

Plaintiffs' state law claims are barred, in whole or in part, because Plaintiffs have not alleged that SRK acted with the requisite scienter.

**Forty-Ninth Defense**

Plaintiffs' claims are barred to the extent that the state laws under which Plaintiffs purport to bring claims require that Plaintiffs establish that SRK made any misrepresentation to Plaintiffs because Plaintiffs cannot establish that SRK made any such misrepresentation to them.

**Fiftieth Defense**

Plaintiffs' state law claims are barred, in whole or in part, because indirect purchasers are prohibited from seeking relief under the laws of one or more of those states.

**Fifty-First Defense**

Plaintiffs' state law claims for treble damages, attorneys' fees, and other remedies are barred, in whole or in part, under the laws of one or more of those states.

**Fifty-Second Defense**

Plaintiffs' requests for treble damages under the Arizona Antitrust Act and the Michigan Antitrust Reform Act are barred on the ground that the alleged violations of those statutes are not flagrant.

**Fifty-Third Defense**

SRK incorporates all affirmative defenses alleged for any and all claims that are the predicate claims for any unlawful conduct claim brought by Plaintiffs under California Business & Professions Code Sections 17200, *et seq.*

**Fifty-Fourth Defense**

To the extent that Plaintiffs' claim of a violation of California Business & Professions Code Sections 17200, *et seq.*, is based on any allegedly fraudulent conduct, Plaintiffs' claim is barred because the conduct was not likely to deceive and/or was mere puffing.

**Fifty-Fifth Defense**

Plaintiffs' claims under the Florida Deceptive & Unfair Trade Practices Act are barred to the extent that Plaintiffs seek to recover punitive, special, consequential, statutory, nominal, or incidental damages.



**Fifty-Sixth Defense**

Plaintiffs' antitrust claim under Minnesota law should be dismissed to the extent that it is barred, in whole or in part, by Minn. Stat. § 325D.54, as no contract combination or conspiracy was created, formed, or entered into within the state of Minnesota nor did any contract combination, or conspiracy created, formed, or entered into elsewhere affect commerce within the state of Minnesota.

**Fifty-Seventh Defense**

Plaintiffs are prohibited from bringing their claims as a class under Mississippi law.

**Fifty-Eighth Defense**

Plaintiffs' claims under the Mississippi Antitrust Act for treble damages and attorneys' fees are barred because treble damages and attorneys' fees may not be recovered under said statute.

**Fifty-Ninth Defense**

To the extent that Plaintiffs' claim any violation of Nebraska Revised Statutes Sections 59-801 *et seq.*, Plaintiffs' claim is barred because Plaintiffs have failed to allege the existence of scienter with respect to SRK.

**Sixtieth Defense**

Plaintiffs' claims under the New Mexico Unfair Practices Act are barred because Plaintiffs have not alleged that SRK made any affirmative false statements with regard to the costs or pricing of the parts at issue.

**Sixty-First Defense**

Plaintiffs' New York consumer protection and antitrust claims against SRK are barred, in whole or in part, because SRK's alleged conduct was not 'consumer-oriented' within the meaning of N.Y. Gen. Bus. Law § 349.

**Sixty-Second Defense**

Plaintiffs' antitrust claim under Wisconsin law should be dismissed to the extent that it is barred, in whole or in part, because no actionable conduct occurred within the state of Wisconsin nor did it have a substantial effect on the people of Wisconsin.

**Sixty-Third Defense**

Plaintiffs' antitrust claims under the laws of North Carolina, Wisconsin, and any other applicable state law claims, should be dismissed to the extent that they are barred, in whole or in part, because the conduct complained of did not substantially affect commerce within those states.

**Sixty-Fourth Defense**

Plaintiffs' claims are barred, in whole or in part, because SRK is not liable for the acts of any other defendant.

**Sixty-Fifth Defense**

Plaintiffs' state law claims are barred, in whole or in part, due to lack of any private right of action under the laws of one or more of those states.

**Sixty-Sixth Defense**

SRK adopts by reference any applicable affirmative defense set forth by any other defendant not expressly set forth herein.

**Sixty-Seventh Defense**

SRK reserves the right to assert other defenses as additional information becomes available. SRK reserves the right to amend or seek to amend its Answer and/or affirmative defenses.

**PRAYER FOR RELIEF**

WHEREFORE, SRK prays as follows:

1. That the Complaint be dismissed with prejudice;

2. That the Court enter judgment in favor of SRK;
3. That the Court award SRK its costs and expenses, including attorneys' fees; and
4. That the Court award further relief as deemed just and proper.

DATED: September 17, 2015

Respectfully submitted,

/s/ J. Clayton Everett, Jr.

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*Counsel for Defendants Sumitomo Riko  
Company Limited and DTR Industries, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 17, 2015, I caused a true and correct copy of the foregoing SUMITOMO RIKO COMPANY LIMITED'S ANSWER TO CONSOLIDATED AMENDED CLASS ACTION COMPLAINT to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notifications of such filings to all counsel of record.

DATED: September 17, 2015

Respectfully submitted,

/s/ J. Clayton Everett, Jr.

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